

**Remarks**

Reconsideration is requested in view of the preceding amendments and the following remarks. Claims 17-22 and 37 are in the application.

Claim 17 is amended for clarification. Support for the amendment to claim 17 can be found in the application at, for example, page 5, lines 15-27. No new matter is introduced.

Claims 17-22, and 37 stand rejected as allegedly anticipated by or obvious in view of Aravamudan et al., U.S. Patent 6,301,609 ("Aravamudan"). This rejection is traversed. Claim 17 recites a messaging method that comprises selecting a message type for a message intended for delivery to at least one selected recipient. Application presence data associated with recipient activity in an application associated with the selected message type is evaluated, and the message is processed based on the evaluation. Aravamudan does not teach or suggest such a messaging method. According to the Advisory action of April 26, 2004, Aravamudan discloses online status information that is used by an application and is therefore application presence data:

Aravamudan discloses that online status information is used by an instant messaging application. Although the online status information is not indicative of whether a user has initiated a particular application, under the broadest reasonable interpretation of 'application presence data,' online status information reads on this because it is presence data that is used by an application. Advisory action, page 2 (citations omitted).

Claim 17 is amended to clarify that application presence data is not merely data used by an application such as Aravamudan's online status information, but is instead associated with message recipient activity in a messaging application for a selected type of message.

Aravamudan's online status information does not permit determination of whether an intended message recipient has initiated the appropriate messaging application and is therefore available to receive a message. Instead, Aravamudan's online status information merely permits determination of whether a user is connected to a network, and a user can even terminate an

instant messaging session and preserve the user's online status. Col. 7, lines 1-5 and 35-36. In contrast, based on application presence data as recited in claim 17, a message recipient can be indicated as both online and active ("present") in a selected messaging application. Even if the broadest reasonable interpretation of "application presence data" were to include Aravamudan's online status information, claim 17 as amended further recites that application presence data is associated with user activity in an application associated with the selected message type. As admitted by the Advisory action, Aravamudan's online status information is not indicative of whether a user has initiated a particular application, and therefore does not teach or suggest the application presence data recited in claim 17. Therefore, all pending claims are properly allowable over Aravamudan.

In view of the preceding amendment and remarks, allowance of all pending claims is requested.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By



Michael D. Jones  
Registration No. 41,879

One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 226-7391  
Facsimile: (503) 228-9446